

### Remarks

This is in response to the non-final Office Action mailed August 17, 2009. Claim 4 is canceled without prejudice or disclaimer, and subject matter of claim 4 is incorporated into claim 3. Claims 1, 3, and 5 are also amended. Support for the amendments is found throughout the figures. Claims 1-3, 5, and 6 are pending. Reconsideration and allowance are requested for at least the following reasons.

#### I. Rejection

In the non-final Office Action mailed August 17, 2009, claims 1-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bernard (U.S. Patent No. 6,450,458) in view of Miranda (U.S. Patent No. 6,107,575). Applicants respectfully traverse the rejection. Reconsideration is requested for at least the following reasons.

#### II. Statutes, Laws, and Rules

To render obvious, one or more references must teach every claim limitation. 35 U.S.C. 103(a); MPEP 2141. References cannot be combined when one reference teaches away from the suggested combination. See KSR Int'l v. Teleflex Inc., 127 S. Ct. 1727, 1740 (citing United States v. Adams, 383 U.S. 39, 50-51, 86 S. Ct. 708 (1966)); MPEP 2143.01 and 2145(X)(D)(2).

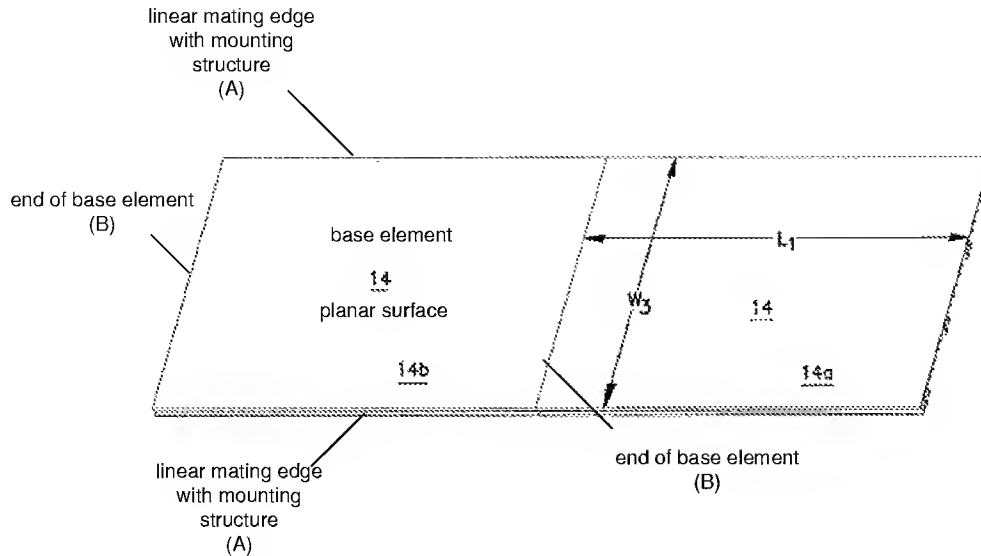
#### III. Analysis

##### A. Claims 1 and 2

Claim 1 now recites that the planar top surface is planar along an entirety of the base element extending between the first end and the second end, including between a first of the linear mating edges to a second of the linear mating edges, and between the first mounting structure of the first linear mating edge to the first mounting structure of the second mating edge.

##### i. The Purported Combination Lacks a Base with Planar Surface

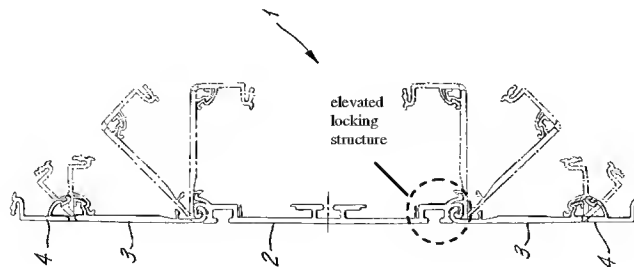
Claim 1 now clarifies that the planar top surface extends between the first mounting structures of the linear mating edges. This is illustrated in Figure 2 of the application, reprinted below.



(Annotations added). As shown in Figure 2, each base element 14 includes linear mating edges “A” and ends “B” with mounting structures. Each base element 14 is planar along an entirety of the planar top surface of the base element 14 between the linear mating edges A and the ends B, including between the mounting structures.

The Action concedes that Bernard fails to disclose the noted limitations.

Miranda also lacks a planar top surface being along an entirety of the base element extending between the first end and the second end, including between a first of the linear mating edges to a second of the linear mating edges, and between the first mounting structure of the first linear mating edge to the first mounting structure of the second mating edge, as recited by claim 1. The “locking structure” of Miranda is elevated with respect to the top surface of the element 2, as shown in Figure 1 of Miranda, reprinted below (annotations added).



Miranda therefore fails to provide the disclosure that is lacking in Bernard.

The Action states that it would have been an obvious matter of design choice to make the different portions of the base element of whatever form or shape was desired or expedient because a change in form or shape is generally recognized as being within the level of skill in the art, absent a showing of unexpected results. Action, p. 4. This statement is respectfully traversed for the following reasons.

The Action fails to suggest how one would modify the locking structures disclosed by Miranda to create a planar surface. For example, if the locking structures could be modified as suggested to create a planar surface, the locking structures would become eliminated, since the structures need height to form the locking structure itself.

Also, there are unexpected results associated with the claimed methods. For example, the formation of the top planar surface that includes the locking structures provides a planar surface over which the fiber optic cables can extend without undesirable bends associated with cables that are routed over elevated surfaces. This decreases the likelihood of degradation of the signals in the cables associated with such bends.

ii. The References Teach Away from the Purported Combination

Bernard teaches away from the purported combination with Miranda because Bernard states the following:

The coupler 100 has an inner wall consisting of two side walls 110 and a bottom wall 120, which are preferably integral and continuous.

Bernard, col. 3, ll. 5-7 (underling added). Bernard therefore requires couplers and troughs with integral walls and teaches away from forming a base element and a plurality of side elements mounted thereto. Bernard cannot be combined with Miranda.

iii. The References Cannot be Combined as Suggested

Miranda discloses a linear channel section with pivotable wall elements. In contrast, the elements of Figures 10 and 12 of Bernard that are identified in the Action are fittings. Such fittings are typically attached to the ends of linear sections. See, for example, Fig. 1 of U.S. Patent No. 6,739,795, which shows a linear trough 12 coupled to a fitting 18 by a coupler 14.

There is no suggestion provided as to how one would take the fittings disclosed by Bernard and incorporate the linear sections disclosed by Miranda to arrive at the claimed inventions. For example, the Action fails to identify how the fittings disclosed in Figures 10 and 12 of Bernard could be coupled to the longitudinal sides of the element 2 of Miranda. Such a combination, as suggested in the Action, could not be made.

iv. There is No Suggestion to Make the Purported Combination

In addition, there is no suggestion as to how or why one skilled in the art would be motivated to modify the fittings disclosed by Bernard based on the channels disclosed by Miranda to arrive at the claimed methods. Claim 1 does not simply recite methods that include breaking a cable routing system into various elements, but instead recite specific structures for each of the elements that allow the elements to be assembled according to the steps of the claimed methods.

Neither Bernard nor Miranda, alone or in combination, discloses or suggests an assembly method for cable routing systems as recited in claim 1. Further, even if the fittings disclosed by Bernard could be broken into separate elements, there are literally thousands of different ways in which the elements could be formed. It is therefore respectfully suggested that it would not have been obvious to try because there are not simply a finite number of identified, predictable solutions.

Reconsideration and allowance of claim 1, as well as claim 2 that depends therefrom, are therefore requested.

B. Claim 3

Claim 3 now recites the planar top surface being planar along an entirety of the base element extending to the perimeter, and each of the sides defining a first mounting structure positioned within the perimeter. Claim 3 therefore requires that the locking structures fall within the perimeter, which has a planar top surface along its entirety. For at least reasons similar to those noted above, neither Bernard nor Miranda, along or in combination, discloses or suggests such a method.

Claim 3 also recites mounting at least one horizontal side exit and at least one downspout to the base element. The Action fails to disclose or suggest how or why one would have modified the locking structures of Miranda to accommodate a downspout. For example, because of the elevated nature of the locking structures in Miranda, any fiber optic cables exiting a trough would be required to bend upwards to move over the locking structure of Miranda, and then bend downwards to exit through the downspout. Such a configuration would result in multiple bends in the cables, which is undesirable.

Reconsideration and allowance of claim 3 are requested.

C. Claims 5 and 6

Claim 5 now recites mounting the base elements together to form a base having a planar top surface extending to outermost edges defined by one or more of the opposite sides and opposite ends of the base elements. Claim 5 is therefore allowable for at least reasons similar to those noted above.

Reconsideration of claim 5, as well as claim 6 that depends therefrom, is requested.

IV. Conclusion

Favorable reconsideration in the form of a Notice of Allowance is respectfully requested. Please contact the undersigned attorney with any questions regarding this application. Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 13-2725.

The Commissioner is hereby authorized to charge any additional fees as set forth in §§ 38 CFR 1.16 to 1.18 which may be required for entry of these papers or to credit any overpayment to Deposit Account No. 13-2725.

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